

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DOC #:
DATE FILED: 10/19/09

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WILFREDO RODRIGUEZ, : 07 Civ. 10655 (SHS)

Petitioner, : -----x-----

-against- : ORDER

SUPERINTENDENT FRANK MCCRAY, :
-----x-----
Respondent. : -----x-----

SIDNEY H. STEIN, U.S. District Judge.

In a Report and Recommendation dated June 30, 2009, Magistrate Judge Theodore H. Katz recommended that the petition for a writ of *habeas corpus* be denied. After a *de novo* review of Magistrate Judge Katz's Report and Recommendation, and petitioner's objections filed September 29, 2009 to the Report and Recommendation,

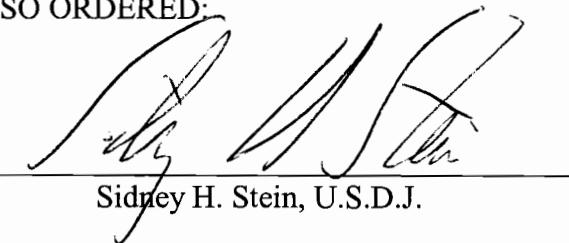
IT IS HEREBY ORDERED that:

1. Magistrate Judge Katz's "Report and Recommendation" is adopted;
2. The petition for a writ of *habeas corpus* is denied, and the action is dismissed;
3. As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; see also Richardson v. Greene, 497 F.3d 212, 217 (2d Cir. 2007); and

4. Pursuant to 28 U.S.C. § 1915(a) the Court certifies that any appeal from this Order would not be taken in good faith.

Dated: New York, New York
October 19, 2009

SO ORDERED:

A handwritten signature in black ink, appearing to read "S. Stein".

Sidney H. Stein, U.S.D.J.